

September 28, 2006

Chairman Scott called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Rossi, Mr. Mulhall, Mr. Martin, Mr. Brandt, Mr. Lukasik,  
Mr. Bischoff, Mr. Rosol, Mr. Roth, Mr. Grossi, Mr. Scott

Others Present: Atty. William Sutphen, Robert Bogart, Carl Hintz, Stephen Souza,  
Vincent Uhl, Kenneth Newman, Atty. Michael Gross, William  
Mulligan, Joseph Staigar, Michelle McBride, Frank Goldberg,  
Atty. Douglas Janacek, Tom Ricker, Matthew Wunder, Orest  
Walchuk, Julie Campbell, Paul Apostolik, Michael Barile, Arthur  
Nevins, Maria Cerillo, Gale Young, Lizzy Castro, John Corcoran

**Witte: Block 29.03, Lot 10, 34 Wyckoff Drive:** Mr. Witte's request to reconfigure his net-buildable area in order to build a swimming pool had been approved at the September 5, 2006 Workshop, subject to providing proof of notification to adjoining property owners, and specifically Applied Wastewater, of the proposal.

Mr. Bischoff made a motion that the conditions had been met. Mr. Brandt seconded the motion.

Vote: Ayes: Mr. Bischoff, Mr. Brandt, Mr. Mulhall, Mr. Martin, Mr. Lukasik,  
Mr. Rosol, Mr. Roth, Mr. Grossi, Mr. Scott

Abstain: Mr. Rossi

Mayor Rossi and Mr. Mulhall recused themselves prior to the Pilot Hearing.

**Pilot Travel Centers: Block 11, Lot 24.03, 68 Route 173:** Atty. Michael Gross said notice had been made that tonight's meeting would be held at the Union Township School, 165 Perryville Road, due to overflow attendance at the July 27, 2006 meeting. Atty. Sutphen had reviewed the notice and said they were acceptable. The Notice was marked Exhibit A-13. Atty. Gross said he had asked to meet with Board professionals to resolve some technical issues. Mr. Scott explained why the Board does not authorize such meetings. Mr. Gross asked witness William Mulligan, Vice President of Development, to come forward. Mr. Mulligan was sworn by Atty. Sutphen. Mr. Mulligan stated his credentials. They were accepted by the Board. Mr. Mulligan gave an overview of current conditions at the site and Pilot's proposal to make improvements.

Mr. Mulligan said the current operator sells about 65,000 gallons of gas per month; Pilot proposes 140,000 to 165,000 gallons. Currently, about 600,000 gallons of diesel fuel is sold per month and Pilot proposes 800,000 gallons. Pilot proposes adding two additional diesel lanes. Mr. Mulligan said that Pilot utilizes third-party billing and that expedites movement of trucks. In response to a question from Atty. Gross, Mr. Mulligan provided information on the proposed Subway and convenience store.

Mr. Mulligan also said the average truck has a capacity to hold 250-300 gallons of fuel and gets about 5.5 miles per gallon. Truckers are apprised of where to stop, using a computerized system. Mr. Mulligan emphasized that most truckers are anxious to stop and get fuel, something to eat and take a shower and get back on the road. Mr. Mulligan said the closest Pilot Travel Center that is similar in size to the one proposed here is located in Scranton, Pa. Mr. Mulligan said Pilot is concerned about safety at their sites. Atty. Gross asked Mr. Mulligan to address the handling of any contaminated soil at the site. Mr. Mulligan said it would have to be removed as required by Law. Mr. Mulligan said Pilot would be agreeable to directing westbound trucks to use Exit 13. He said the NJDOT was in favor of that as well. Atty. Gross asked Mr. Mulligan the number of employees proposed. Mr. Mulligan said on an average day shift there would be a general manager, three cashiers, two or three gas attendants and about four people at the Subway. Atty. Gross asked Mr. Mulligan to provide information on the fuel oil facility. Mr. Mulligan said there are between 15 and 20 trucks per week, each with a capacity of 2,000 gallons, using the site. He described the circulation of the trucks.

Regarding lighting, Mr. Mulligan emphasized that safety is a factor. More lights are proposed and lower volumes would be considered. Atty. Gross asked how any fuel spills would be handled. Mr. Mulligan said Pilot would comply with NJDEP Requirements. Mr. Mulligan said Pilot is aware that groundwater cleanup is ongoing at the site. Applicant is prepared to accelerate the cleanup. Pilot would comply with the Stormwater Management Plan and consider enhancements to the Plan, if there was a reasonable request. Mr. Mulligan wanted the record to reflect that Pilot is buying the facility, even if approval is not granted for the application before the Board. He was of the opinion that many of the Public felt Pilot would not buy the site without approvals sought.

Mr. Scott asked for questions from the Board. Mr. Bischoff wanted confirmation that the number of cars would increase from 49 to 72 and the number of trucks from 72 to 91. Mr. Mulligan concurred with those numbers. Mr. Grossi asked if Hilltop Fuel would continue. Mr. Mulligan said Hilltop will be operated by the present owners. Pilot will be responsible for environmental issues. Mr. Grossi asked if there was a written agreement about that matter, including the language. Mr. Mulligan said there is and he will provide the information. Mr. Grossi asked about remediation of contamination at the site and how it is classified by the NJDEP. Mr. Mulligan indicated he was unfamiliar with DEP's classification. Mr. Scott was concerned about the increase in the amount of diesel fuel projected per month and the number of vehicles going through the site. Mr. Scott was also concerned about the greater chance of oil spills because of increases. He asked Mr. Mulligan what size he considered the Bloomsbury site to be. Mr. Mulligan said it is relatively small. There is a problem with trucks backing up at the site. Improvements have been made. Mr. Mulligan said he has not visited the site since they were finished. That site is next to the Travel Center of America. Mr. Scott had a concern about shifting trucks from the Pilot site at Bloomsbury to Johnny's. Mr. Scott mentioned testimony Mr. Mulligan provided about using Exit 13. Atty. Gross said he understood that was brought up by the Township Traffic expert.

Mr. Mulligan said the Pilot Directory would list whichever Exit the Township asked truckers to use. The issue will be addressed by Pilot's Traffic consultant. Mr. Scott also had a concern about truckers stopping in front of the convenience store. Mr. Mulligan said truckers are not encouraged to stay for more than a few minutes. Mr. Mulligan said that Pilot maintains orderly facilities. Mr. Brandt asked Mr. Mulligan about his statement that four out of five vehicles are four-wheel vehicles, not trucks. Mr. Mulligan said the numbers were correct. If Pilot's plan for the site was not approved and minimal changes were made, they would not have the four out of five vehicle profile. Mr. Roth asked about the impact of trucks idling overnight. Mr. Mulligan understood Mr. Roth's concern. He said the industry is changing and batteries will be used for heat and air conditioning. Mr. Mulligan also said a company called Idle Air can provide auxiliary power units for heating and air conditioning of trucks. The Township would, however, have to grant a permit for the Idle Air equipment. Mr. Mulligan indicated the technology would be prevalent in three to five years. Mr. Roth asked about retrofits. Mr. Mulligan said trucks can be retrofitted. Mr. Scott questioned Mr. Mulligan buying and operating the site as it exists. Would it fit Pilot's business model? Mr. Mulligan said Financially yes, aesthetically no". Mr. Scott asked, if the site were not expanded, the setbacks could be maintained and there would be a bigger buffer along Route 173? Mr. Mulligan said if the site were not expanded the buffers would be left as they exist. Mr. Scott said if the site was not expanded, there would not be an increase in vehicles and additional parking would not be necessary, thus buffers could be attained. Mr. Mulligan said he would recheck the issue about relief from setbacks with his engineer.

Mr. Scott asked for questions from Township professionals. Mr. Hintz said he had none at the time. Dr. Souza said Mr. Mulligan indicated that Pilot could comply with NJDEP requirements regarding spill control. Dr. Souza said DEP typically requires the minimum. He would like Pilot to have 100% containment on site. Mr. Mulligan said that wasn't an unreasonable request. Mr. Newman asked about activity at Bloomsbury. Mr. Mulligan said the average monthly diesel fuel for 2005 was 866,000 gallons and 165,000 gallons of gas. He said some of that business would probably shift to this site. Mr. Newman asked what percentage of the use at Bloomsbury was from eastbound versus westbound trucks. Mr. Mulligan said he had no idea. Atty. Gross asked Mr. Scott about his reference to setbacks. He said as Mr. Mulligan indicated the issue would be reviewed. Mr. Uhl asked Mr. Mulligan how it was determined that the storage tanks were in good condition. Mr. Mulligan said he assumed it was determined by age of the tanks. Pilot will do a line and tank test before taking over the facility. Due diligence will be done 10 days prior to closing. Mr. Uhl questioned Mr. Mulligan about ongoing ground water clean up and Pilot's proposal to accelerate the clean up. Mr. Mulligan said they have talked to DEP about the acceleration. Whitestone is Pilot's environmental company. The site is currently being monitored, there is no clean up. Mr. Uhl asked about other Pilot facilities in the State. Mr. Mulligan said there is one in Bordentown and one at Carney's Point where I-95 and I-295 come together after the Delaware Memorial Bridge. Mr. Uhl asked if there had been Notice of Violations at those facilities. Mr. Mulligan said he did not know of any Notices from the State.

Mr. Uhl asked Mr. Mulligan to compare water usage at the Pilot sites. Mr. Mulligan indicated that would vary, depending upon whether there was a Subway, Wendy's, Arby's or McDonald's. Mr. Mulligan said the Bloomsbury site has a septic system and he believes there is a well. Bordentown has public sewer and water and he did not know about Carney's Point. Mr. Uhl asked if a water use breakout had been done, in terms of expected truck trips, car trips and visitors and use of toilets, showers and washers. Mr. Mulligan said it had been done on the basic water usage for every square foot. He did not know if the analysis had been provided to the Township. Mr. Mulligan will check with his engineer. Mr. Uhl emphasized Dr. Souza's concern about full containment of a tanker type spill. Dr. Souza said Mr. Mulligan indicated that Pilot would be willing to upgrade the existing storm water system and asked if applicant would consider installing advanced techniques that would collect and filter water prior to off site discharge. Mr. Mulligan said "Absolutely". Pilot puts catch basins on every island and water goes through an oil water separator before discharge.

Mr. Rosol had a question about Pilot's plan to buy the site whether or not approval is granted and what the gasoline volume would be anticipated. Mr. Mulligan said he hoped it would increase from the present 65,000 gallons to between 125,000 to 140,000 gallons. Mr. Mulligan said Pilot will return to the Board with an application for the Subway if the application before the Board is not approved. Mr. Rosol asked about water usage at the site. Mr. Mulligan indicated that Pilot was comfortable with a usage of 3,200 gallons per day. Mr. Rosol asked about lighting and testimony from Pilot's engineer that it was based on industry standards. Mr. Rosol wanted to know if it was industry standards or Pilot's standards. Mr. Mulligan explained. Mr. Rosol asked Mr. Mulligan if the Bloomsbury site would stay in operation. Mr. Mulligan replied in the affirmative. Mr. Rosol asked about security. Mr. Mulligan said Pilot's management team would try to resolve issues and if the situation escalated, the Police would be called.

Mr. Bogart asked how the trucks would be moved along. Mr. Mulligan said drivers would be asked to move. He does not foresee a problem. Mr. Bogart had a question relating to the use of Exit 13 as opposed to Exit 12. He asked Mr. Mulligan if he would be available for questions after Traffic Engineer Joseph Staigar's testimony. Mr. Mulligan said "Absolutely". Mr. Lukasik asked if there was a scale on the site. Mr. Mulligan said "Yes". Mr. Lukasik also asked about the volume of gasoline and diesel fuel and the difference in the amount predicted for the proposed site versus the amount at Bloomsbury. Mr. Mulligan explained. Mr. Lukasik had a question about water usage and how Pilot would address the issue if the maximum of 3,200 gallons per day was reached. Mr. Mulligan said Pilot would have to cut back on usage. Pilot plans to perform the aquifer test before building. Atty. Gross reminded the Board that the aquifer test was not performed because the owner would not allow it to be done. Pilot plans to perform the test after taking control of the facility. Mr. Rosol said he felt better knowing about Pilot's plan to perform the aquifer test prior to building.

Mr. Scott announced a break (8:35 p.m.) prior to taking questions from the Public. He asked that courtesy be extended to Mr. Mulligan. Mr. Scott stressed there would be an opportunity to offer testimony at another time. The Hearing reconvened at 8:50 p.m. Mr. Scott emphasized that questions be asked that are within the scope of testimony given by Mr. Mulligan tonight. Tom Ricker, Baptist Church Road, asked Mr. Mulligan if Pilot would meet Township storm water management regulations. Mr. Mulligan said they would. Atty. Gross said if Pilot is granted approval, they would meet substantive requirements of the Ordinance as if they were a major developer. That means water quality, recharge and attenuation. Mr. Grossi said he understood that was coming from you, so just for the record. Atty. Gross said "Yes". Mr. Scott asked if that was a stipulation from Pilot and was Mr. Mulligan affirming that? Mr. Mulligan replied in the affirmative. Dr. Souza asked Pilot to go further and Mr. Mulligan said they will as long as it is reasonable. Frank Goldberg asked if what Pilot submitted meets the Township storm water regulations. Mr. Mulligan said it does and Pilot is willing to go further, within reason. Mr. Goldberg said his reasonable and Pilot's reasonable are different and that Pilot is not treating this like a new project, storm water wise and everything else environmental. Mr. Mulligan disagreed. Mr. Goldberg said "so you would meet all standards, like this was a brand new property never having been developed? Mr. Mulligan said it is the same standard. Mr. Goldberg asked what would be a major development plan. Mr. Scott said Mr. Mulligan is not here as an expert in that area. Mr. Mulligan emphasized that Pilot had wanted to meet with Township professionals. He said Dr. Souza talked about the oil/water separator and catch basins and it would be helpful if Pilot's professionals could discuss those matters. Frank Goldberg made statements about the application. Mr. Scott reminded Mr. Goldberg to ask a question within the scope of Mr. Mulligan's knowledge.

Julie Campbell asked Mr. Mulligan if Pilot directs truck drivers to their sites. Mr. Mulligan said "No". The trucking companies may direct drivers to specific truck stops. Mr. Mulligan said Pilot has contracts with about 3,500 companies. He said Johnny's has quite a few. Ms. Campbell asked if Pilot might anticipate more trucks coming to the site, because of their many contracts. Mr. Mulligan said yes, however, truck companies have agreements with TA, Flying J and Petro. Paul Apastolik asked when the traffic study was done. Mr. Mulligan said the traffic engineer would provide the date. Mr. Apastolik had another question concerning eastbound traffic flow. Mr. Mulligan said the traffic engineer would address the matter. Mr. Scott asked the Public, once again, to extend some courtesy to Mr. Mulligan. Michael Berilli had a question about the anticipated increase in diesel fuel sales. Mr. Mulligan explained. Maria Cerillo asked if Pilot would have a joint venture with Hilltop Fuel. Mr. Mulligan said "No". Another member of the Public asked about NJDEP matters. Mr. Mulligan said Pilot is taking full responsibility. He said Pilot would be subcontracting the remediation work. Lizzy Castro asked Mr. Mulligan if he knew the percentage of truckers traveling with guns. Mr. Mulligan said "No idea". Ms. Castro asked about Pilot's loitering policy. Mr. Mulligan said loitering is not allowed. Enforcement is through management.

Ms. Castro mentioned the possibility of Subway becoming a hangout. Mr. Mulligan told Ms. Castro if she thought Subway was a bad place she would not patronize it and Pilot would be counting on her patronage. Arthur Nevins asked about Pilot buying the property no matter what. Mr. Mulligan said that was correct. Mr. Nevins asked if Pilot was aware the property is zoned for professional offices. Mr. Mulligan was aware of that designation and the reason for many variances. Gail Young, Perryville Road, voiced a concern about water. She referenced a water study that was prepared by Matt Mulhall. Ms. Young asked if Pilot would be prepared to pay for the impact of water draw down for any affected residents. Mr. Mulligan said he believes that is why the Board is requiring what he understands to be a very stringent water test. Atty. Gross said he didn't think Pilot was familiar with the Mulhall Study. John Corcoran, a Highland Ridge resident asked Mr. Mulligan if any spillover was anticipated from Pilot's similar-sized facilities in Scranton or Binghamton. Mr. Mulligan replied in the negative. Jim Morgan had a concern about environmental and traffic issues. He asked Mr. Mulligan if he was aware of the NJDOT scale west of the subject site. Mr. Mulligan said he was not. Mr. Morgan said technology to control diesel fumes is just being developed. Mr. Mulligan said it has been developed and is ready to be installed. In response to a question about soil testing, Mr. Mulligan said numerous soil tests have been performed. Mr. Mulligan also stated that the facility, including Subway, would be open 24 hours a day, 7 days a week. Michelle McBride voiced a concern about the potential increase in crime. Ms. McBride noted the increase in the crime rate in Bloomsbury. Julie Campbell asked Mr. Mulligan if he was familiar with the Dallas Observer article dated August 2, 2006, describing FBI involvement at a Pilot site. Mr. Mulligan said he was not. He said Pilot has security in Dallas. Mr. Mulligan said if there was an inordinate amount of crime, Pilot would work with the State Police. If necessary, Pilot would put security at the site.

Atty. Douglas Janacek, representing INO Therapeutics, asked Mr. Mulligan if he was responsible for finding new sites for Pilot. Mr. Mulligan said that is a part of his responsibility. He also takes an application through the approval process. He does not stay on the site and operate it. Mr. Mulligan said he has full knowledge of operations, construction, design, permitting, billing and credit. Mr. Janacek asked if Pilot would have a representative provide testimony about the operation of the proposed site. Mr. Mulligan said "No". He also said the Bloomsbury site operated fine when it was built in 1988 and he believes it operates properly today. The NJDOT authorized the backing up of trucks in the right turn lane. Atty. Janacek asked Mr. Mulligan to describe what could be bought at the store. Mr. Mulligan said Twinkies, Coke, Hot dogs and candy, etc. Mr. Mulligan said there is a separate access for cars and trucks at Bloomsbury. There will also be separate accesses at the proposed site. A member of the Public had questions about the number of fuel islands and pumps. Mr. Mulligan said there are four islands with eight fuel positions for gasoline. The islands will be on concrete and there will be canopies. Mr. Mulligan said there are seven islands for diesel fuel and Pilot proposes nine. Catch basins will be constructed where the islands presently exist. Questions were asked about the proposed building.

Mr. Mulligan said there would be a convenience store, showers, a Subway restaurant, laundromat, closets and a utility room. The store will have between 5 and 10 employees. Mr. Mulligan assumed the Bloomsbury site has a similar number of employees. He confirmed that Pilot is a franchisee of Subway. Deliveries to Subway will average two to three per week. The delivery trucks will utilize the designated loading area. Other deliveries would include items for the convenience store and they would use the loading area, as well. If two deliveries arrived at the same time, one would have to wait in a parking spot. Mr. Mulligan said morning is the peak time for sales; however, lunchtime and the dinner hour are also peak times. Atty. Janacek asked the amount of a typical check. Mr. Scott told Atty. Janacek he was going a little far a field with that question. Mr. Janacek said it is related to traffic. Mr. Mulligan said if a customer purchased 110 gallons of diesel fuel at \$3.00 per gallon, it would be \$330.00. Some fuel customers would also stop at the convenience store. Regarding Hilltop Fuel, Mr. Mulligan said he is not an employee, representative and does not have any official position with Hilltop Fuel. He said during the winter there could be as many as 12 trucks a day accessing the Pilot facility to Hilltop Fuel. Atty. Janacek asked about the adequacy of lighting. Mr. Mulligan said the plan which was submitted has adequate lighting.

Mr. Scott told Atty. Janacek that other people in the audience would have questions. He wanted them to have an opportunity. Orest Walchuck, Wellington West, wanted confirmation that the proposal was to raze the existing building and build a new structure. Mr. Mulligan said that was correct. The new building would be smaller. The overall impervious surface coverage would be about the same. The number of employees would be about the same. Mr. Walchuck also had a question about COAH. Mr. Mulligan did not have information on that matter. Matthew Wunder, 319 Gano Road, had a question about idling of trucks. Mr. Mulligan said Pilot does not have enforcement authorities. Atty. Gross said, just for the record, the State proposed new idling regulations. If passed, trucks would only be allowed to idle for three minutes. Atty. Janacek asked additional questions. He asked the number of employees at Hilltop Fuel and where they parked. Mr. Mulligan did not know the number. He assumed they would park on site. Pilot would have a leaseback agreement with Hilltop Fuel. There are no plans for condominiums. Mr. Janacek asked about trucks accessing the scale. Mr. Mulligan said the truck pulls onto the scale, is weighed and the weight recorded. The truck drives off. It is not a long process. The trucker obtains and pays for a receipt inside the store. Mr. Mulligan said this would probably take less than a minute. The time frame for diesel fueling would be between eight and ten minutes. Mr. Mulligan said that typically there would not be more than two or three trucks in a line. Atty. Janacek asked about gas fueling stops. Mr. Mulligan said where they stopped would depend on what side their tank was on. Regarding trash removal, Pilot uses a compactor system and the compactors are dumped once a week. Hilltop Fuel would also be allowed to use the compactors. Mr. Mulligan was not familiar with recycling of cardboard.

Customers could purchase motor oil, transmission fluid, wiper blades, etc.; however, no services would be provided for their installation. No services would be provided for trucks either. Mr. Scott told Atty. Janacek that the Hearing was about to close. Mr. Janacek asked if the witness would be available for further questions that may arise. Atty. Gross said that depended when the next meeting would be held. Mr. Scott said October 26, 2006, a location will be found. Mr. Mulligan said he would attend. Atty. Janacek asked about obtaining copy of the LOI with the site plan. Mr. Scott said to contact the Board secretary.

Mr. Scott wanted to make sure that Atty. Gross had several letters that came to the Board office since the July 27, 2006 Hearing. Secretary was asked to send copies to Mr. Gross. Atty. Gross asked if the Board would consider a special meeting. Mr. Scott said he would have to talk to Board members. Mr. Scott said he understood Mr. Mulligan's testimony was done, subject to other concerns that might arise. Atty. Gross said Traffic Engineer Joseph Staigar, Pilot's Planner and Environmental Consultant would be providing testimony. Mr. McDonough is the Planner. Mr. Scott asked that the Planner submit a report to the Board. Atty. Gross asked if the planner was required to submit a report. Mr. Scott responded. He did not think the Board should be surprised at what the Planner might testify about. He said the Board's Planner should have an opportunity to review the report and advise the Board. Mr. Scott asked Atty. Gross how much time Mr. Staigar would need for testimony. Mr. Gross said his direct examination would be half an hour.

Mr. Grossi asked Atty. Janacek if INO would be filing an intervention and what was the purpose for being at the Hearing. Mr. Janacek said under the MLUL, INO is participating as an interested party, since they are opposite Exit 13 and would bear the brunt of traffic from that Exit. He anticipates putting on a case. Mr. Grossi asked Atty. Janacek how INO would prove that they would be impacted by the traffic, what witnesses they would call and when would the Board be told. Mr. Janacek said INO would be prepared some time before or at the next meeting. At this point, there might be a traffic expert and planner. Mr. Grossi said he would like paperwork and felt sure that Atty. Gross would also. Mr. Scott told Mr. Janacek to copy Atty. Gross simultaneously with any information submitted to the Board. Atty. Janacek said "Absolutely". Mr. Scott asked Mr. Janacek if he intended to call witnesses. Mr. Scott would communicate the information to Atty. Gross. Mr. Janacek said he would provide the information directly to Atty. Gross.

Mr. Scott asked that an Extension be granted through the October 26, 2006 meeting. Atty. Gross was amenable. Mr. Scott told Mr. Gross he would get back to him about the location and the matter of a special meeting. Atty. Gross thanked Mr. Scott. The Hearing concluded at 10:10 p.m.

There was no further business and the meeting adjourned. (10:15 p.m.)



